IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 469 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VINODKUMAR UTTAMCHAND SHAH

Versus

MAHENDRAKUMAR NAGINCHAND SHAH

Appearance:

1. Criminal Revision Application No. 469 of 2004

MR SK BRAHMBHATT for Petitioner No. 1-2

NOTICE SERVED BY DS for Respondent No. 1

MR KT DAVE, APP for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 13/08/2004

ORAL JUDGEMENT

1. Rule. Service of Rule is waived by ld. APP Mr. KT Dave for respondent No.2 State. Respondent no.1

Mahendrakumar Naginchand Shah is present in person and waives service of Rule on his behalf i.e. on behalf of respondent no.1.

2. Ld. counsel Mr. Brahmbhatt appearing for the petitioners- original accused has submitted that the parties have settled the matter out of court and arrived at a compromise and they may be permitted to compound the offence punishable under Sec.138 of the Negotiable Instruments Act. The ld. counsel has tendered the compromise-deed dated 04.08.2004 before the Court duly signed by the parties which is taken on record. Parties are also present petitioner the Court and they admit the compromise having been arrived at in terms of compromise-deed. It has been agreed that Rs.50,000/ which has been deposited by the petitioner with the Registry in compliance with the order passed by this Court, is tobe paid to the respondent no.1 and the petitioners have also paid the balance amount to respondent No.1 Mahendra N.Shah. Respondent No.1 Mahendra N.Shah admits to have received the said amount.

3. I have gone through the impugned orders and have carefully considered the submissions of ld. APP Mr. Dave for the State.

4. In view of above, parties are permitted to compound the offence punishable under Sec.138 of the Negotiable Instruments Act. Consequently, the impugned order passed by ld. JMFC convicting and sentencing the petitioners accused for the offence punishable under Sec.138 of the NI Act as well as impugned order of the ld. Sessions Judge concerned confirming the order passed by ld. JMFC, are hereby quashed and set aside and petitioners are acquitted of the offence punishable under Sec.138 of NI Act. The amount of fine paid by the petitioners accused i.e. Rs.5,000/ each be refunded to the petitioners on proper identification. The petitioners are on bail, their bail bonds stand discharged. Respondent No.1 be paid an amount of Rs.50,000/ deposited by the petitioners with the Registry of this Court by an A/c Payee Cheque and on proper identification. Registry is directed accordingly.

5. Rule is made absolute accordingly. Direct Service is permitted.

[C.K. BUCH, J]

*rawal